



The Attorney General of Texas

November 13, 1981

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Mr. Edward H. Perry
Assistant City Attorney
City Hall
Dallas, Texas 75201

Dear Mr. Perry:

Open Records Decision No. 287

Re: Request for records of
community service division of
police department

On behalf of the city of Dallas you have requested our decision as to whether a brief notation kept by the Community Services Division of the Dallas Police Department is available to the public under the Open Records Act, article 6252-17a, V.T.C.S. The notation consists of the name and address of the person referred, a comment about her, the name of the social worker assigned to the matter, and the date of entry of the notation.

Section 7 of the Open Records Act directs governmental bodies receiving written requests for information it considers within one of the act's exceptions to request a determination by the Attorney General as to whether the information is within that exception. You identify two exceptions as embracing the information sought: (1) the "law enforcement" exception contained in section 3(a)(8) of the act; and (2) the "inter-agency or intra-agency memorandums" exception found in section 3(a)(11).

The "law enforcement" exception is not applicable here. That exception is designed to protect:

records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters related to law enforcement. (Emphasis added).

V.T.C.S. art. 6252-17a, §3(a)(8).

The section 3(a)(8) exception protects a law enforcement agency's records and notations if their release would unduly interfere with law enforcement. Cf. Ex parte Pruitt, 551 S.W.2d 706 (Tex. 1977). The best judge of whether the release of information would do so is ordinarily the law enforcement agency in possession of it, but the

agency cannot arbitrarily relegate information to that category. When the "law enforcement" exception is claimed as a basis for excluding information from public view, the agency claiming it must reasonably explain, if the information does not supply the explanation on its face, how and why release of it would unduly interfere with law enforcement.

The particular notation at issue does not concern the detection and investigation of crime, and could be only tangentially related to law enforcement. In one sense, any information that a law enforcement agency possesses may someday become useful to it in the discharge of its law enforcement duties, but the "law enforcement" exception was not intended by the legislature to shield from public view information in the hands of police units that, absent special law enforcement needs or circumstances, would ordinarily be available to the public if possessed by a different governmental unit.

As we understand the facts, the Community Services Division of the Dallas Police Department provides social services to individuals. The notation sought has to do with that type of activity rather than with more traditional police work and you have offered no explanation as to how its release would unduly interfere with law enforcement. We conclude that section 3(a)(8) is not applicable.

Section 3(a)(11) of the Open Records Act excepts from required disclosure:

inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency. (Emphasis added).

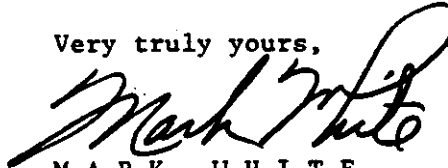
The Texas Department of Human Resources (hereinafter referred to as the DHR) is the state agency responsible for administering public welfare programs in Texas under federal and state law. To do so, it is authorized to enter into agreements with private agencies for the purpose of providing social services for the benefit of eligible individuals. The agency from which the information at issue was received by the Dallas Police Department operates under such a contract on behalf of the DHR. This contract places it under the legal restrictions to which the DHR itself is subject. See V.T.C.S. art. 6252-17a, §2(1)(F) (Open Records Act definition of "governmental body"). Under its contract, the private agency is required to "secure the confidentiality of records and other information relating to clients in accordance with the applicable Federal laws, rules and regulations, as well as the applicable State laws and regulations." The information at issue constitutes information relating to a client.

We are of the opinion that the notation here qualifies as an inter-agency memorandum embraced by section 3(a)(11) of the Open Records Act, and is confidential except for the name of the social worker and the date of the entry. In the hands of the DHR it would be

protected by section 3(a)(11) of the act because it reflects opinion or advice. See Attorney General Opinion H-436 (1974); Open Records Decision Nos. 231 (1979); 178 (1977). And we think it remains protected when conveyed by the DHR to another social welfare agency in the course of discharging its duty, whether conveyed directly by the DHR or indirectly by its private contractual agent. See Attorney General Opinion H-836 (1976); H-242 (1975).

It is our conclusion that the information sought is protected from required disclosure by section 3(a)(11) of the Open Records Act.

Very truly yours,



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